

Plaintiff alleges that other inmates have fallen on this sidewalk and were injured. This sidewalk was finally repaired in mid May, 2012. Plaintiff alleges that the Defendants were aware of

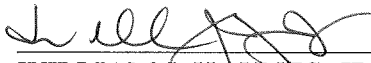
the danger posed by the damaged sidewalk but acted with deliberate indifference in ignoring the danger. Plaintiff alleges the Defendants' failure to repair the sidewalk violates his constitutional rights.

To state a claim for § 1983 relief, the Plaintiff must plead and prove that the defendants, while acting under color of state law, deprived him of a right guaranteed by the Constitution or laws of the United States. Parratt v. Taylor, 451 U.S. 527, 543-44 (1981).

Here, Plaintiff's injury sounds in negligence that is not actionable under § 1983 for failure to rise to a constitutional deprivation, Estelle v. Gamble, 429 U.S. 97, 106 (1976), under the Eighth or Fourteenth Amendment. Whitley v. Albers, 475 U.S. 312, 319 (1986) (Eighth Amendment); Daniels v. Williams, 474 U.S. 327 (1986) (Fourteenth Amendment). Thus, the Court concludes that Plaintiff's complaint fails to state a claim upon which relief can be awarded under Section 1983.

Absent a constitutional violation, the Court must dismiss this action *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order is filed herewith.

  
WILLIAM J. HAYNES, JR.  
Chief District Judge  
11-2872